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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,402	10/03/2003	Keith Alan Miesel	009.6001 (P-11290.00)	1006

29906 7590 08/02/2010  
INGRASSIA FISHER & LORENZ, P.C.  
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SCOTTSDALE, AZ 85253

EXAMINER
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ALTER MORSCHAUSER, ALYSSA MARGO

ART UNIT	PAPER NUMBER
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3762

NOTIFICATION DATE	DELIVERY MODE
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08/02/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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In re Application of: MIESEL, KEITH ALAN et al  
Appl. No.: 10/678402  
Filed: October 3, 2003  
For: SYSTEM, APPARATUS AND METHOD FOR  
INTERACTING WITH A TARGETED TISSUE  
OF A PATIENT

:  
: DECISION ON PETITION  
: Under 37 CFR 1.59

This is a response to the petition under 37 CFR 1.59(b), filed on July 23, 2010 by which petitioners request to expunge information from the above identified application.

The decision on the petition is will be held in abeyance until prosecution on the merits is closed, at which time the petition will be decided.

Petitioner requests that the Information submitted consisting a sealed envelope containing proprietary information on July 23, 2010 should be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material", with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material". If the information is not considered by the examiner to be material, the information will be returned to the applicant. The document in question will not be available to the public during prosecution.

  
Donald T. Hajec, Director  
Technology Center 3700